

*income - disqualification standards  
for city councilwomen*

**Memorandum**

To : File

Date : 5-6-77

*M-77-482*

From : FAIR POLITICAL PRACTICES COMMISSION  
Ted Prim

Subject: Question from Santa Clara City Attorney Ed Moore concerning disqualification of City Councilmember on votes which foreseeably and materially may benefit Peak's Travel Agency, a source of income to her.

On May 2, 1977, Mr. Moore called to ask whether a Santa Clara City Councilwoman must disqualify herself from votes which may affect Peak's Travel Agency. The Councilwoman is an independent contractor who receives commissions in the amount of approximately \$2,000 per year for referring clients to Peak's. The City has historically booked most of its air transportation with Peak's although there is no formal policy to this effect. Last year Peak's received \$13,000 in business from the City of Santa Clara of which their commission was 8%.

We discussed three types of votes in which the Councilwoman might wish to participate: One, votes on the City travel budget; two, votes approving specific travel plans for City officials, e.g., should planning commissioners be sent to a conference; three, approving bills submitted by City officials for previous travel.

With respect to the first type of vote, I advised him that it appears that a vote on the City travel budget may foreseeably affect all four travel agencies in Santa Clara including Peak's. However, since Peak's generally has garnered most of the City's business, it is likely that decisions on the City travel budget will affect Peak's more than the other three travel agencies. Thus, the question becomes whether this foreseeable effect is material. Since Peak's received commissions of approximately \$1,000 last year, the question is whether, pursuant to 2 Cal. Adm. Code Section 18702, this amount represents 1% of the gross revenues or 1/2 of 1% of the net profits of Peak. I also informed him of the subjective standard for finding materiality whenever there is reason to believe that the official is biased. Accordingly, I indicated that there was a distinct possibility that she

File  
2  
5-6-77

should disqualify herself from participating in decisions affecting the travel budget for the City of Santa Clara.

With respect to the second and third types of decisions, it appears most unlikely that the relevant threshold would be triggered. Thus, unless the subjective standard were applicable, she would probably be able to participate in these types of decisions.

TP:jo